

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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SYLVIA LYND P.,

Plaintiff,

1:23-cv-946 (BKS/DJS)

v.

MARTIN O'MALLEY, Commissioner Of Social Security,

Defendant.

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**Appearances:**

*For Plaintiff:*

Justin Goldstein  
Law Offices of Kenneth Hiller  
6000 N. Bailey Ave, Suite 1A  
Amherst, NY 14226

*For Defendant:*

Carla Freedman  
United States Attorney  
Fergus Kaiser, Special Assistant United States Attorney  
Social Security Administration  
6401 Security Boulevard  
Baltimore, MD 21235

**Hon. Brenda K. Sannes, Chief United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Sylvia Lynd P., filed this action under 42 U.S.C. § 405(g) seeking review of the Commissioner of Social Security's denial of her applications for Disability Insurance Benefits, and Supplemental Security Income. (Dkt. No. 1). This matter was referred to United States Magistrate Judge Daniel J. Stewart for a Report-Recommendation. (Dkt. No. 5); Local Rule 73.2(d). On July 15, 2024, after reviewing the parties' briefs, (Dkt. Nos. 11, 14, 15), and the Administrative Transcript, (Dkt. No. 8), Magistrate Judge Stewart issued a Report-Recommendation recommending that Plaintiff's motion for judgment on the pleadings be

granted, Defendant's motion for judgment on the pleadings be denied; and that the Commissioner's decision be reversed and remanded for further proceedings. (Dkt. No. 16). Magistrate Judge Stewart advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report-Recommendation and that "failure to object to th[e] report within 14 days will preclude appellate review." (Dkt. No. 16, at 13 (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e)). No objections were filed.

The Court reviews de novo those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.* Neither of the parties has raised any objection to Magistrate Judge Stewart's Report-Recommendation. The Court has reviewed the Report-Recommendation for clear error and found none.

For these reasons, it is hereby

**ORDERED** that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 16) is **ADOPTED** in all respects; and it is further


**ORDERED** that Plaintiff's motion (Dkt. No. 11) is **GRANTED**; and it is further

**ORDERED** that Defendant's motion (Dkt. No. 14) is **DENIED**; and it is further

**ORDERED** that the Commissioner's decision is **REVERSED** and **REMANDED** for further proceedings.

**IT IS SO ORDERED.**

Dated: September 17, 2024  
Syracuse, New York

  
Brenda K. Sannes  
Chief U.S. District Judge